

IN THE FOURTH DISTRICT COURT OF THE STATE OF UTAH
IN AND FOR UTAH COUNTY

2-5

No. 2888 Civil.

PROVO RESERVOIR COMPANY,
a corporation,

Plaintiff,

vs.

PROVO CITY, ET-AL,

Defendant,

MOTION TO MODIFY DECISION.

Come now Nephi Huber and Joseph E. Huber, defendants
herein and move the Court to modify the Decision rendered
herein on November 26, 1917, as follows:

1. That the Court strike from Paragraph 43 of said
Decision the names of said defendants, Nephi Huber and Joseph E.
Huber;

2. That the Court add to said decision a paragraph to be known
as 43-B, decreeing the rights of said defendants separate and apart
from the waters of the Midway Irrigation Company, a defendant
herein, as prayed for in the Counter-claim of said defendants, and
that said paragraph 43-B be made to read as follows:

43-B. That the defendants, Nephi Huber and Joseph E. Huber
are the owners of and entitled to the use of .433 second feet of
the primary or low waters, or first class waters of Snake Creek, a
tributary to Provo River, to water 26 acres of land situated in
Section 21, T. 3 S. R 4 E. S. L. M., and that said Defendants,
Nephi Huber and Joseph E. Huber be decreed to be the owners of .35
second feet in addition to the above primary or first class water
right, the said .35 to be a high water right of _____ class,
and to be used to irrigate the above mentioned 26 acres, together
with an additional 14 acres situated in the same section, township

and adjacent thereto. Said .35 second feet of high water to be used each and every year until notified by the water commissioner to discontinue the use thereof.

This motion is based upon the files and records in this cause and particular attention is called to the counter-claim of said defendants, and the Court is referred to the testimony introduced on behalf of said defendants, and the attempt of the Midway Irrigation Company, defendant herein, to contradict the testimony of these defendants as to three of the twenty-six acres irrigated by these defendants, and further attention is called to the fact that these defendants were not parties to the stipulation entered into between the plaintiff herein and Midway Irrigation Company, defendant herein.

Chase Hatch

Attorney for Defendant.

Due and legal service hereof is hereby accepted this
Sixth day of December, 1917.

Alfred L. Booth

Of Counsel for Plaintiff.

2888
IN DIST. COURT
UTAH CO., UTAH
★ FILED ★
DEC 7 1917

L. O. Peterson Clerk.
J. R. Bunch Deputy.